

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**PENOVIA LLC,**

Plaintiff,

v.

**ACTIONTEC ELECTRONICS, INC.,**

Defendant.

Case No. 2:13-cv-770

**PATENT CASE**

**JURY TRIAL DEMANDED**

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**PLAINTIFF PENOVIA LLC'S ANSWER TO COUNTERCLAIMS  
OF DEFENDANT ACTIONTEC ELECTRONICS, INC.**

Plaintiff Penovia LLC (“Plaintiff” or “Penovia”) files this Answer to the Counterclaims asserted against Penovia by Defendant Actiontec Electronics, Inc., (“Defendant” or “Actiontec”). Any allegation or defense not expressly admitted herein is denied.

**ANSWER TO COUNTERCLAIM ALLEGATIONS**

Plaintiff admits that Defendant purports to assert counterclaims against Plaintiff.

**Jurisdiction and Venue**

1. Plaintiff admits that Defendant asserts counterclaims under The Federal Declaratory Judgment Act, otherwise denied.

2. Plaintiff admits that the Court has subject matter jurisdiction over Defendant’s purported counterclaims.

3. Plaintiff admits allegations of paragraph 3.

4. Plaintiff admits allegations of paragraph 4.

**The Parties**

5. Plaintiff admits allegations of paragraph 5.

6. Plaintiff admits allegations of paragraph 6.

7. Plaintiff admits allegations of paragraph 7.

**Answer to Counterclaim Count One**  
**(Declaratory Judgment of Non-Infringement of U.S. Patent No. 5,822,221)**

8. In response to Defendant's incorporation by reference of paragraphs 1 through 15 of its Answer, Affirmative Defenses, and paragraphs 1 through 7 of its Counterclaims, Plaintiff incorporates by reference its responses to Defendant's Counterclaims, as set forth in paragraphs 1 through 7 above. To the extent any allegation is not expressly admitted, it is hereby denied.

9. Plaintiff admits the allegations of paragraph 9.

10. Plaintiff denies the allegations of paragraph 10.

11. Plaintiff admits that an actual and justiciable controversy exists between Plaintiff and Defendant as to whether or not Defendant has infringed Plaintiff's rights under the Patent. Plaintiff denies that the Patent has not been and is not infringed by Defendant.

12. Plaintiff denies the allegations of paragraph 12.

**Answer to Counterclaim Count Two**  
**(Declaratory Judgment of Invalidity of U.S. Patent No. 5,822,221)**

13. In response to Defendant's incorporation by reference of paragraphs 1 through 15 of its Answer, Affirmative Defenses, and paragraphs 1 through 7 of its Counterclaims, Plaintiff incorporates by reference its responses to Defendant's Counterclaims, as set forth in paragraphs 1 through 7 above. To the extent any allegation is not expressly admitted, it is hereby denied.

14. Plaintiff admits that it asserts that the '221 patent is valid, otherwise denied.

15. Plaintiff admits that an actual and justiciable controversy exists between Plaintiff and Defendant as to validity of the '221 patent. Plaintiff denies that the Patent is invalid.

16. Plaintiff denies the allegations of paragraph 16.

**ANSWER TO PRAYER FOR RELIEF**

Plaintiff denies that Defendant is entitled to relief of any kind on its Counterclaims.

**ANSWER TO DEMAND FOR A JURY TRIAL**

Defendant's Jury Demand is an averment to which no responsive pleading is required. Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of all issues so triable by right.

WHEREFORE, Plaintiff prays for the relief set forth in its Complaint and that Defendant's Counterclaims, and all relief requested by Defendant, be denied.

Dated: November 13, 2013

Respectfully submitted,

/s/ Craig Tadlock  
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***Attorneys for Plaintiff Penovia LLC***

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 13th day of November, 2013.

/s/ Craig Tadlock  
Craig Tadlock